

## Case T-229/02

**Kurdistan Workers' Party (PKK)  
and Kurdistan National Congress (KNK)**

**v**

**Council of the European Union**

(Action for annulment — Specific restrictive measures directed against certain persons and entities with a view to combating terrorism — Capacity to bring proceedings — Locus standi — Association — Admissibility)

Order of the Court of First Instance (Second Chamber), 15 February 2005 . . . II - 542

### Summary of the order

- 1. Actions for annulment — Natural or legal persons — Measures of direct and individual concern to them — Decision on restrictive measures with a view to combating terrorism — Groups and entities at which those measures directed — Admissibility — Assessment on a case-by-case basis*

*(Art. 230, fourth para., EC)*

2. *Procedure — Admissibility of actions — Assessed by reference to the situation when the application was lodged — Not affected by a decision replacing the contested decision during the proceedings*
3. *Actions for annulment — Natural or legal persons — Measures of direct and individual concern to them — Action by an association promoting the general interests of a category of natural or legal persons — Condition — Locus standi of its members individually — Whether locus standi of former members to be taken into consideration — Not included (Art. 230, fourth para., EC)*
4. *Actions for annulment — Natural or legal persons — Measures of direct and individual concern to them — Measure of general scope — Concept of person individually concerned by a measure of general application (Art. 230, fourth para., EC)*

1. As regards groups or entities to which specific restrictive measures for combating terrorism apply, the rules governing the admissibility of an action for annulment must be construed according to the circumstances of the case. It may be that those groups or entities do not exist legally, or that they were not in a position to comply with the legal rules which usually apply to legal persons. Therefore, excessive formalism would amount to the denial, in certain cases, of any possibility of applying for annulment, even though those groups and entities were the object of restrictive Community measures.
2. The principle of the proper administration of justice requires that where an act that an applicant is challenging is replaced, in the course of the proceedings, by an act with the same subject-matter, he is not required to bring a new action but may expand or amend his original application so as to cover the new act. However, the admissibility of an action must be judged by reference to the situation prevailing when the application was lodged. Therefore, even in the event of amendment of the forms of order sought by an applicant when a new act supervenes during the proceedings, the requirements governing the admissibility of an action, apart from that concerning the continuance of an interest in bringing the proceedings, cannot be affected by such amendment. As regards the admissibility of an action, it is therefore unnecessary to offer the applicant the opportunity of amending his pleadings in the light of the adoption of a new act.

(see para. 28)

(see paras 29-30)

3. An association formed for the protection of the collective interests of a category of persons cannot be considered to be individually concerned, for the purposes of the fourth paragraph of Article 230 EC, by a measure affecting the general interests of that category, and is therefore not entitled to bring an action for annulment if its members cannot do so individually. In that regard, it cannot be accepted that a person's past membership of an association enables that association to avail itself of that person's possible right of action. To accept such reasoning would be tantamount to conferring on an association some sort of perpetual right to bring proceedings, despite the fact that that association can no longer claim to represent the interests of its former member.

(see paras 45, 49)

4. Natural or legal persons can claim to be concerned individually by a measure of general application only if they are affected by reason of certain attributes which are peculiar to them or by reason of circumstances in which they are

differentiated from any other person. The fact that a measure of general application may have specific effects which differ according to the various persons to whom it applies is not such as to differentiate them in relation to all the other persons concerned, where that measure is applied on the basis of an objectively determined situation.

Since a decision prohibiting funds from being made available to a group or association is addressed to all persons who are subject to Community law, it applies to objectively determined situations and entails legal effects for categories of persons regarded generally and in the abstract.

An association bound to comply with the prohibition laid down by that decision like all other persons in the Community is not individually concerned by such a decision.

(see paras 51-52)